

In The United States District Court
For The Northern District of Oklahoma

FILED

JUL 07 2014

Phil Lombardi, Clerk
U.S. DISTRICT COURT

Lindsey Kent Springer,
Movant,

v.
United States of America,
Respondent,

Case No 13-CV-145
(Formerly 09-CR-043)

Motion To Reconsider and Allow Discovery

Lindsey Kent Springer ("movant") seeks an order reconsidering allowing discovery involving certain documents related to Thomas Scott Woodward's appointment as United States Attorney, by the Attorney General on January 21, 2010, and the authorization and appointment of Charles A. O'Reilly as a "Special Assistant United States Attorney." This request is made based upon newly discovered evidence.

Background

Mr. O'Reilly declared to this Court that on December 23, 2008 John A. Marrella authorized him to represent the United States with respect to the "investigation and prosecution" of movant, Doc 525, pg 2.

Mr. O'Reilly further declared that on January 5, 2009, David E. O'Melia "appointed" him as a "Special Assistant United States Attorney" (SAUSA) on January 5, 2009. Doc. 525, pg 2.

Mr. O'Reilly also declared that unnamed "United States Attorney" appointed him SAUSA on January 4,

✓ Mail ___ No Cert Svc ___ No Orig Sign
1 ___ C/J ___ C/MJ ___ C/Ret'd ___ No Env
___ No Cpy's ✓ No Env/Cpy's ___ O/J ___ O/MJ

2010, January 4, 2011, January 10, 2012, and most recently on December 19, 2012. Doc 525, pg 2

On January 27, 2010, Mr. Woodward, Mr. O'Reilly, and Kenneth P. Snoke, declared Mr. Woodward was appointed pursuant to 28 U.S.C. § 546(a) on January 21, 2010. Doc 292, pg 1

The Tulsa World reported in August, 2012, Danny C. Williams, Sr. was confirmed under 28 U.S.C. § 541. Doc 474, Exhibit 8

Mr. O'melia resigned on June 28, 2009.

Between June 28, 2009 through January 21, 2010, Mr Woodward presented himself as "Acting United States Attorney." See Doc 104, 252.

On October 4, 2013, Mount moved for leave to conduct discovery regarding 7 interrogatories and 10 requests for documents. Doc 524

On October 9, 2013 Mount made a Freedom of Information Act ("FOIA") request to The Executive Office for United States Attorneys and FOIA/PA Mail Referral Unit Justice Management Division, both of the U.S. Department of Justice ("DOJ"), seeking any documents pertaining to the appointment of Mr Woodward as "United States Attorney" for the Northern District of Oklahoma and Mr O'Reilly as "Special Assistant United States attorney" see Springer Declaration at Exhibits 1, 2, 3, 4 and pg. 1

The time period for Mr. Woodward was between June 1, 2009, through August 2, 2012. Id

In Two letters dated January 17, 2014, and January 24, 2014, EOUSA Assistant Director Susan B. Gerson explained the time frame and other procedures involved in satisfying Mount's FOIA requests. See Springer Declaration at Exhibit 5 and 6 and pg. 2

On June 25, 2014, Ms. Gerson's response letter dated June 23, 2014, was received by Mount. See Springer Declaration at Exhibit 7 and pg. 2

The June 23, 2014, FOIA response regarding SAUSA O'Reilly states:

"A search for records located in EOUSA Personnel has revealed no responsive records regarding the above Subject. It appears SAUSA Charles A. O'Reilly is [sic] no longer an employee. Therefore, his official personnel file is no longer maintained."

Id

Mount has not yet received a response from Ms. Gerson regarding Mr. Woodward's appointment as United States Attorney. See Springer Declaration at 2

Reason For Discovery

Mr. O'Reilly declared:

"With respect to the above-captioned case, the undersigned represented the United States of America during the grand jury investigation, at trial, and during Mr. Springer's appeal from his conviction."

Doc. 525, pg. 2

As to Mr. Woodward, if he was commissioned by

The President pursuant to 28 U.S.C. § 546(a), and Article II, § 3, Mr. Woodward would possess evidence of his commission, as would EOUSA.

The EOUSA's finding is in conflict with prior statements made by Mr. O'Reilly. See Doc 525, pg 2.

Grounds 1 and 2 of movant's 2255 raise issue with the lack of Article III, § 2 standing of Mr. O'melia, Woodward, Snoke, and O'Reilly, at various stages to prosecute movant. See Doc 472, pg 11-12.

Prosecution requires a United States Attorney, U.S. v. Singleton, 165 F.3d 1297, 1300 (10th Cir. 1999). See also U.S. v. Bennett, 464 Fed Appx 183, 185 (4th Cir. 2012) (unpublished); U.S. v. Navarro, 959 F. Supp. 1273, 1277 (E.D. Cal. 1997).

Without a United States Attorney properly appointed the district court lacks Article III standing. Singleton, 165 F.3d at 1300; Navarro, 959 F. Supp. at 1277. And, no judicial jurisdiction and power. U.S. v. Grady, 89 U.S. 641, 647 (1875); U.S. v. Providence Journal Co. 485 U.S. 693, 699-708 (1988).

A Judge has a duty to ensure Judicial Power is not used where the Constitution and laws forbid it. Mansfield C & Lm R Co. v. Swan, 111 U.S. 379, 384 (1884); Steel Co. v. Citizens For a Better Env't, 523 U.S. 83, 94-95 (1998).

Jurisdiction cannot be inferred by consent, inaction

or stipulation. Basso v. Utah Power & Light Co., 495 F.2d 906, 909 (10th Cir. 1974)

Absence of jurisdiction in the convicting Court is a basis for habeas type relief cognizable under the due process clause. Yellowbear v. Wyo Attorney Gen. 525 F.3d 921, 924 (10th Cir. 2008).

Documents Sought

movant seeks the following documents:

- 1) Mr. Woodward's appointment as an Assistant United States Attorney, United States Attorney, and Presidential Commission, between January 1, 2009 through August 2, 2012, for the Northern District of Oklahoma;
- 2) Mr. O'Reilly's authorization dated December 23, 2008, and his SAUSA appointment letters dated January 5, 2009, January 4, 2010, January 4, 2011, January 10, 2012, and December 19, 2012.

Conclusion

movant respectfully request an order directing the documents listed above be produced to movant in an unaltered form within 15 days from the date of the Court ordering same as certified copies.

Respectfully,

Lindsey A. Spruig
Reg # 02580-063
Federal Satellite Law-kaTuna
P.O. Box 6000
Anthony, New Mexico 88021

Certificate of Service

I hereby certify that on June 30, 2014, I mailed First Class U.S. Mail the above motion to the Clerk of Court, 333 West Fourth St., Tulsa, Oklahoma 74103.

I further certify that all Parties are ECF users and shall receive service through the ECF system.

Denny C. Williams, Sr.
Jeffrey A. Ballant
Charles A. O'Reilly

Lindsey K Spruig
Server

Declaration of Mailing

I declare under penalty of perjury, pursuant to 28 USC § 1746(1), under the laws of the United States of America, that on June 30, 2014, I deposited the above motion in the U.S. mailbox located inside FSL in Tulsa to the address above.

Lindsey K Spruig
Declarant

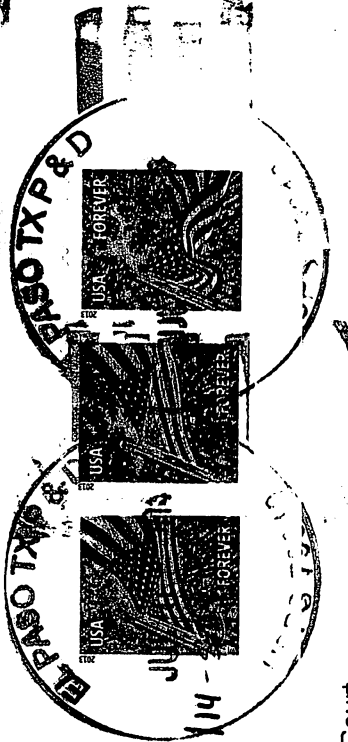
Lindsey Kent Springer
Reg # 02580-063
Federal Satellite Law-ka Tuna
P.O. Box 6000
Anthony, New Mexico 88021

"Legal Mail"

⇔02580-063⇔

Clerk Of Court
Northern District of Okla
333 W 4TH ST
Tulsa, OK 74103
United States

postmark 7/1/14



RECEIVED

JUL 7 2014

Phil Lombardi, Clerk
U.S. DISTRICT COURT

09-cr-43